

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	ICC Docket No. 15-0273
Amendment of 83 Ill. Adm. Code 465)	

**VERIFIED INITIAL COMMENTS OF
THE PEOPLE OF THE STATE OF ILLINOIS**

The People of the State of Illinois, by and through Lisa Madigan, Attorney General of the State of Illinois (“the People” or “AG”), pursuant to Section 200.800 of the Rules of Practice of the Illinois Commerce Commission (“Commission”) and the Administrative Law Judge’s Notice of Continuance of Hearing and Notice of Schedule dated June 3, 2015, hereby file their Initial Comments in the above entitled proceeding. The Commission is considering proposed amendments to 83 Ill. Adm. Code 465, which governs net metering and implements Section 16-107.5 of the Public Utilities Act.

I. Introduction

Section 6.5 of the Illinois Attorney General Act states that effective representation by the Attorney General is necessary to protect the rights and interests of the public in all elements of the provision of electric service. 15 ILCS 205/6.5. The Illinois Supreme Court, in interpreting Article XI of the Illinois Constitution, has held that “the Attorney General has an obligation to represent the interests of the People so as to ensure a healthful environment for all the citizens of the State.” *People v. NL Industries*, 152 Ill.2d 82, 103 (1992); *see also* Ill. Const. 1970, art. XI (ensuring the right to a healthful environment).

With these obligations and responsibilities in mind, the People urge the Commission to adopt the proposed amendments attached to the Commission’s April 8, 2015, Order initiating

this case. The amendments will incorporate statutory changes, improve the operation of net metering programs, and ensure a transparent and fair system for consumers and for developers of projects intended for net metering.

As discussed below, the People have suggested some modifications to the proposed amendments to Section 465.40 regarding reporting. The People support the proposal for a new Section 465.90, which clarifies the electricity supplier's obligation to consider meter aggregation applications and requires the supplier to provide an explanation to the applicant if an application is denied.

II. Section 465.40: Reporting, Availability of Information, and Confidentiality

Section 465.40 addresses the annual net metering reports that electricity suppliers must submit pursuant to 220 ILCS 5/16-107.5(k). The People generally support the proposed amendment of this section. But in order to further the interests of transparency in government, make useful data available to the Commission, consumers, researchers, and advocates, and protect legitimate concerns of suppliers engaged in competitive business, the People suggest that the following modifications be made to the proposed amendment of Section 465.40. The changes (reflected in highlighted double-underline) are intended to ensure that information and reporting is available to the public and that electricity suppliers also have the ability to request that appropriate information be treated as confidential.

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Suggested Changes to the Proposed Amendments to Section 465.40

Section 465.40 Reporting Requirements

- (a)** The annual report required by Section 16-107.5(k) of the Act shall be filed with the Chief Clerk ~~Manager of the Energy Division~~ of the Illinois Commerce Commission by April 1 of each year ~~beginning in 2009~~. The report shall include all information required under Section 16-107.5(k) of

the Act, including, but not limited to, the following information: the total number of net metering customers served ~~peak demand supplied~~ by the electricity provider; ~~during the previous year~~; the type, capacity, and energy sources of the generating systems used by the electricity provider's net metering customers; whether the total generating capacity of the electricity provider's net metering customers; ~~equals or exceeds the 5% cap~~; and, whether the electricity provider intends to limit the total generating capacity of its net metering customers to 51%; ~~and the electricity provider's total number of net metering customers.~~

Commission staff shall maintain a publicly accessible webpage on the Commission's website that includes public copies of the annual reports and lists the electricity providers who failed to file an annual report. Commission staff shall also publish a summary of the annual reports providing aggregated statistics from annual reports and ensuring that any confidential information is not identifiable.

- (b) If information contained in the annual report filed pursuant to this Section contains commercially or financially sensitive information or trade secrets, the electricity provider may file that information with the Commission on a confidential basis. To be filed confidentially, the information shall be accompanied by an affidavit that sets forth both the specific reasons confidential treatment is required and a public synopsis of the information. If an annual report contains information filed on a confidential basis, the electricity provider shall file both a "confidential" and a "public" version of the report and attached documentation, with confidential information redacted and marked "Confidential." Commission Staff shall post the "public" version of the report on the Commission's website as required by subsection (a). As long as the electricity provider adheres to the requirements of this subsection and the request for confidentiality is accompanied by the above-described affidavit, it is unnecessary to file a petition seeking confidential treatment, unless the electricity provider is requesting that the information be maintained as confidential for a period longer than two years, in which case a petition is required. Following expiration of the confidentiality period, the information will no longer be considered confidential and Commission Staff shall replace the "public" version of the report with the "confidential" version on the Commission's publicly accessible webpage referenced in subsection (a).

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III. Section 465.90: Consideration of Meter Aggregation Applications

The People support the proposed inclusion of a new provision addressing meter aggregation applications. Good net metering policy facilitates the ability of customers to generate

power from renewable energy, which reduces electric bills and reduces emissions into the environment from power plants. Effective net metering is in the public interest, which the General Assembly recognized in 2007 when it required utilities to offer it:

The Legislature finds and declares that a program to provide net electricity metering, as defined in this Section, for eligible customers can encourage private investment in renewable energy resources, stimulate economic growth, enhance the continued diversification of Illinois' energy resource mix, and protect the Illinois environment.

220 ILCS 5/16-107.5(a).

Utilities are required to offer net metering for “renewable electrical generating facilit[ies]” (e.g., solar panels) that are “located on the customer’s premises” and are “intended primarily to offset the customer’s own electrical requirements.” Section 16-107.5(b). But according to national estimates nearly 50 percent of residential and business customers cannot install solar panels or wind turbines “on” their premises, either because it is an apartment or condominium building, or because their rooftops and yards cannot accommodate the equipment due to insufficient size or because of slope or tree coverage.¹ In these situations, the law requires utilities to “consider” “meter aggregation”—which is defined as “the combination of reading and billing on a pro rata basis”—as a solution. Section 16-107.5(l).

Meter aggregation allows for power generation from a single renewable energy facility, such as a wind farm, solar project, or panels on an apartment building’s rooftop, to be shared amongst participants, subscribers, owners, or leaseholders—as their cooperative arrangement provides. Without meter aggregation, many Illinois residents, especially those in low to

¹ See National Renewable Energy Laboratory (NREL), *Shared Solar: Current Landscape, Market Potential, and the Impact of Federal Securities Regulation* at v (April 2015), available at www.nrel.gov/publications (“We estimate that 49% of households are currently unable to host a [solar photovoltaic (PV)] system when excluding households that 1) do not own their building (i.e., renters), 2) do not have access to sufficient roof space (e.g., high-rise buildings, multi-unit housing), and/or 3) live in buildings with insufficient roof space to host a PV system. We also estimate that 48% of businesses are unable to host a PV system when excluding businesses that 1) operate in buildings with too many establishments to have access to sufficient roof space (e.g., malls), and/or 2) have insufficient roof space to host a PV system capable of supplying a sufficient amount of their energy demand.”).

moderate income households, will be unable to participate in the bill-reducing, emission-reducing benefits of renewable energy applications like wind and solar.

The proposal for a new Section 465.90 will ensure that applicants for meter aggregation will receive a prompt response following the utilities' statutorily-required "consider[ation]" of their proposals. *See* Section 465.90. Either an application will be approved or, for applications that are denied, the electricity provider will be required to "provide an explanation of its determination, based on the facts and circumstances presented in the application, in a written document." *Id.* Requiring utilities to explain the reasons for its denial of a meter aggregation request will allow the customer and the project developer to correct any problems or concerns—or perhaps redesign their proposal, look for a different location, utilize a different technology, etc. Without the individualized denial explanations required by Section 465.90, there is no guarantee that unsuccessful applicants will find out what is wrong with their proposal and what they could do differently to have it approved. The new Section 465.90 will ensure fair treatment of customers, and the People urge the Commission to approve it.

IV. Conclusion

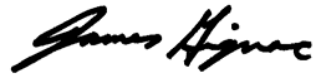
For the reasons set forth above, the People respectfully request that the Commission: (1) include the People's proposed modifications to the amendment of Section 465.40 regarding reporting, availability of information, and confidentiality; and (2) approve the proposed amendments, including the new Section 465.90.

Dated: June 24, 2015

Respectfully submitted,

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